

18cv054

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Kieran Kelly
Plaintiff,

v.

Tanvir Choudhri M.D. and
Mount Sinai Health Systems, Inc.
Defendants

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Civil Action No.

PLAINTIFF'S COMPLAINT AND JURY TRIAL DEMAND

PARTIES

1. The plaintiff, Kieran Kelly (hereinafter "Kelly") is a resident of McKean Pennsylvania.
2. The defendant, Tanvir Choudhri (hereinafter "Choudhri") is medical doctor, practicing medicine at Mount Sinai Hospital, within the borough of Manhattan New York City, New York State.
3. The defendant, Mount Sinai Health Systems, Inc. (hereinafter "MSHS"). is the owner/operator of multiple medical facilities within the Borough of Manhattan, New York City, New York State.

JURISDICTION

5. The court has jurisdiction over this matter based upon diversity of citizenship, pursuant to 28 U.S.C. 1332.

STATEMENT OF FACTS

4/1/18

6. At all times relevant hereto, MSCI owned, controlled, or operated Mt Sinai Hospital, located in New York City, New York State.
7. On or about March 24, 2014, The plaintiff underwent a surgery purportedly to decompress an arachnoid cyst in his brain. Said surgery was performed at Mt. Sinai Hospital by Choudhri.
8. On or about June 24, 2014, the plaintiff underwent a hemilaminectomy surgery on his lower back, purportedly to address pain he was experiencing in that part of his body. Said surgery was performed at Mt. Sinai Hospital by Choudhri.
9. On or about May 7, 2015, the plaintiff underwent a fusion surgery on his lower back, purportedly to address pain he was experiencing in that part of his body. Said surgery was performed at Mt. Sinai Hospital by Choudhri.
10. On or about August 8, 2015, the plaintiff underwent a second brain surgery purportedly to decompress an arachnoid cyst. Said surgery was performed at Mt. Sinai Hospital by Choudhri..
11. All treatment described in paragraphs 8-10 hereof constituted continuous and uninterrupted treatment rendered to the plaintiff by both defendants.

COUNT I: Medical Negligence: Choudhri

12. The plaintiff restates and incorporates paragraphs 1-11 of his Complaint as if specifically set forth herein.
13. The defendant, Choudhri, with respect to treatment of the plaintiff, Kelly, was negligent in the following manner:
- a. The defendant failed to exercise the degree of care and skill of the average qualified member of the medical profession practicing his/her specialty, taking into account the advances in the profession.

- KWK
- b. The defendant improperly and inadequately treated or failed to treat the plaintiff's condition and its complications.
 - c. The defendant negligently failed to properly diagnose the plaintiff's condition before, during or after the symptoms for which the plaintiff was being treated were known to him.
 - d. The defendant failed to institute timely corrective procedures for the plaintiff's care and benefit, despite the presence of an abnormal x-ray and the risk factors exhibited by the Plaintiff.
 - e. The defendant failed to care for and treat the plaintiff at a time when he knew, or in the exercise of due care should have known, of the plaintiff's need for close and timely monitoring, care and treatment.
 - f. The defendant was negligent in the care and treatment of the plaintiff in other respects as will be shown at trial.
14. As a direct and proximate result of the negligence of the defendant, Choudhri, the plaintiff, kelly, was caused to sustain severe and permanent personal injuries, was caused great pain of body and mind and has been caused to incur great medical, hospital and other expenses for said injuries.

WHEREFORE, the plaintiff demands judgment against the defendant, Choudhri for all damages sustained by him, as well as interest, attorney's fees and all other remedies available to him under applicable state and federal law.

COUNT II: Medical Negligence: MSHS

20. The plaintiff restates and incorporates paragraphs 1-14 of her Complaint as if specifically set forth herein.
21. At all times relevant hereto, Choudhri was an agent, servant, or employee of MSCI.


22. At all times relevant hereto, MSCI was legally responsible for the negligent conduct of Choudhri, based upon the doctrine of respondent superior.
23. As a direct and proximate result of the negligence of the defendant, MSCI, the plaintiff, Kelly, was caused to sustain severe and permanent personal injuries, was caused great pain of body and mind and has been caused to incur great medical, hospital and other expenses for said injuries.

WHEREFORE, the plaintiff demands judgment against the defendant, MSCI for all damages sustained by him, as well as interest, attorney's fees and all other remedies available to him under applicable state and federal law.

THE PLAINTIFF DEMANDS A JURY TRIAL WITH RESPECT TO ALL ISSUES.

Plaintiff

Pro se


KIERAN KELLY.
5465 Pine Tree Rd.
McKean PA 16426

Date: 01-24-2018

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Kieran Kelly

DEFENDANTS

Tanvir Choudhri and Mounst Sinai Health Systems, Inc.

(b) County of Residence of First Listed Plaintiff Erie (PA)
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant New York
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

5,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

1/31/18

SIGNATURE OF ATTORNEY OF RECORD

Kieran Kelly (BSM)

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER

ORLANDO & ASSOCIATES

Counsellors At Law/Proctors in Admiralty

IOLTA ACCOUNT
ONE WESTERN AVENUE
GLOUCESTER, MA 01930



5-7516/110

2/1/2018

PAY TO THE ORDER OF United States District Court

Four Hundred and 00/100*****

\$**400.00

DOLLARS

VOID AFTER 180

United States District Court
One Courthouse Way
Boston, MA 02110

Coretta Brando

AUTHORIZED SIGNATURE

MEMO

Kieran Kelly

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE. RED IMAGE DISAPPEARS WITH HEAT.

⑈002894⑈ ⑆011075150⑆ 10027026300⑈

ORLANDO & ASSOCIATES

United States District Court

2894

2/1/2018

400.00

Sovereign IOLTA

Kieran Kelly

400.00

Kieran Kelly
5465 Pine Free Rd.
McKean PA 16126
814-440-2198
Hagfish_mx@yahoo.com

1/29/18

United District Court
Southern District of New York 500 Pearl St.
New York NY 10007-1312
ATTN: Pro-Se Unit
RE: Kelly v. Tanvir Choudhri M.D. and Mount Sinai Health
Systems, Inc.
Dear Sir or Madam:
Enclosed please find for filing a civil complaint, a civil action
cover sheet, and filing fee Please advise as soon as said
complaint has been docketed.
Thank you.



Kieran Kelly

